

Member Update

Title: NEW - GTA Trade Rules

Update No.: 18 of 12

Date of Issue: 5 September 2012

Distribution

- GTA Members – primary contact list. Please circulate to all appropriate internal parties

SPECIAL NOTE

- The new Trade Rules become effective 1 October 2012
- Members are encouraged to review the new Trade Rules.
- The New Trade Rules are available on the GTA website www.graintrade.org.au

1 Background

Grain Trade Australia (GTA) have finalised the review of the GTA Trade Rules which have been approved by the Board.

The Trade Rules were developed in 1998 and limited changes have been made to ensure they remain contemporary.

The intention of the review was not to change the effect of the Rules, nor to change the way they operate. The review was intended to:

1. separate out those parts of the Rules which shouldn't be incorporated into a contract;
2. take out those parts which aren't being used and probably won't be used; and
3. add a definition section.

2 Development process

2011

Industry personnel and GTA staff reviewed and drafted a revised set of GTA Trade Rules based on;

1. arbitration and civil court outcomes;
2. changes in statute law; and
3. best practise guidelines for development of legal documents.

7 March 2012

The amended GTA Trade Rules were presented to the Commerce Committee who approved distribution of the Draft Trade Rules to industry for comment.

12 March 2012

Member Update No. 03 of 12 - Review of GTA Trade Rules called for submissions which were received from:

1. Queensland Agricultural Merchants
2. PB Grains
3. Louis Dreyfus
4. NSW Farmers Association

4 April 2012

The Commerce Committee reviewed the GTA Trade Rules in light of the industry submissions.

13 June 2012

The Trade Rules were again brought to the attention of the Commerce Committee to further address the concerns of the NSW Farmers' Association submission.

27 August 2012

Trade Rules were presented to GTA Board for approval which was granted.

3 Major amendments, in particular new Rules

- Almost all the Rules have been rewritten. In most cases this was necessary to give greater clarity.
- This table highlights the major new Rules and those Rules that have been substantially rewritten.

	Previous Rules	New Rules
Definitions	Definitions spread throughout the Rules.	Definitions section at the front of the Rules.
Agent and broker – <i>defined</i>		<p>Agent means a person who is not a Broker and who is authorised to act on behalf of a Principal.</p> <p>Broker means an independent person, firm or electronic trading platform engaged or used by others, at least partially on a commission basis, to facilitate contracts under instructions from Buyers and Sellers, relative to goods to which it does not have actual or constructive possession.</p> <p>A person is not a Broker:</p> <p>(a) who has possession and absolute control of goods supplied to him or her to sell and collect the price. (Therefore, a commission agent to whom a commodity is consigned for sale is not a Broker.)</p> <p>(b) who only acts for one Principal to the exclusion of all others.</p>
Location Differential - <i>defined</i>		<p>GTA Location Differential means a set of values (index) used to adjust a port-based price for delivery of grain to a range of up-country locations, for the primary purpose of the settlement of the GTA Contract No 2 Grain and Oilseeds in Bulk Basis Track.</p>

	Previous Rules	New Rules
Natural Terminal Port - defined		<p>Natural Terminal Port means, in respect of an up-country site,</p> <p>Where a port and tributary up-country rail site are connected by rail, the port with the lowest rail Location Differential;</p> <p>Where an up-country site has only road access, the port with the lowest Location Differential.</p>
Rail Site - defined		<p>Rail Site means a grain storage site where grain can be physically loaded to a train for transportation by rail, that is to say;</p> <p>a) The site is capable of receiving a train service via an operational line and/or siding,</p> <p>b) The site has operational infrastructure capable of loading a train, and</p> <p>c) The owner/operator of the site must provide rail out-loading services to the market.</p> <p>For the avoidance of doubt, the location of a grain storage site adjacent to a rail line does not automatically classify it as a 'rail site'.</p>
Rule 1.0 – substantial changes in form, detail and requirements.	<p>Rule 1.0 Trade</p> <p>Rule 1.1 Terms of Trade</p> <p>Rule 1.2 Confirmations of Trade</p> <p>Rule 1.3 Alteration of Trade</p>	<p>Rule 1.0 Application Of Rules</p> <p>These Rules apply in so far as they have been incorporated into the contract between the parties.</p> <p>The parties may expressly vary or exclude the application of these Rules in the contract.</p> <p>In the event of any conflict between these Rules and the Dispute Resolution Rules, these Rules will govern.</p> <p>Rule 2.0 Entire Agreements And Variation</p> <p>The contract terms represent the entire agreement between the parties to the exclusion of any preceding drafts, negotiations and/or representations.</p> <p>Any variation to the express terms must be mutually agreed in writing.</p>

	Previous Rules	New Rules
Warranties - <i>expanded</i>	Rule 8.0 Chemical And Pesticide Residues The Seller warrants that the commodity complies with all State and Federal Laws and requirements relating to chemical and pesticide residues and specified government designated maximum residue levels.	Rule 9.0 Sellers' Warranties The Seller warrants that the commodity complies with all State and Federal Laws and requirements relating to chemical, pesticide residues, Genetically Modified Organisms' (GMO's), varietal declarations and all other conditions required by these Trade Rules, the contract, or law.
Delivery instructions – <i>new Rule</i>		Rule 13.1.3 Delivery Instructions Once tendered under Rule 13.1(1) or 13.1(2), delivery instructions may only be varied by the Buyer at the Buyer's expense.
Delivery in More than One Consignment – <i>issue highlighted as a stand alone rule</i>		Rule 13.2 Delivery in More than One Consignment Where goods are Delivered in more than one consignment, the contract shall be deemed to be a separate contract in respect of each consignment. The Buyer shall not be entitled to reject an entire consignment because of any default occurring in some other consignment on the same contract.
Relationship delinquent payments & disputes – <i>new Rule</i>		Rule 13.3 Delinquent Payments at Time of Conveyance For the avoidance of doubt, a payment is not delinquent if it is subject to a genuine dispute which has been notified to the Buyer.